

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCEL K. CHAMBERS,

Plaintiff,

v.

OFFICER WINDHAM,

Defendant.

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No. 4:22-CV-453 PLC

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's fifth motion for appointment of counsel. ECF No. 35. The motion is denied without prejudice.

In civil cases, a self-represented litigant does not have a constitutional or statutory right to appointed counsel. *Ward v. Smith*, 721 F.3d 940, 942 (8th Cir. 2013). *See also Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998) (stating that "[a] pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case"). Rather, a district court may appoint counsel in a civil case if the court is "convinced that an indigent plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel." *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the complexity of the case, the ability of the self-represented litigant to investigate the facts, the existence of conflicting testimony, and the ability of the self-represented litigant to present his or her claim. *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006).

After considering these factors, the Court finds that the instant fifth motion for appointment of counsel is unwarranted at this time for the same reasons it denied plaintiff's fourth motion. *See*

ECF No. 33. Plaintiff filed this case against one defendant, Officer Windham, who was served with the second amended complaint on January 27, 2023. Consequently, as of the date of this Order, defendant Windham has not yet filed a responsive pleading and the time for doing so has not passed. Because the circumstances in this action have not changed since plaintiff's previously filed requests for appointment of counsel, the instant fifth motion will be denied. The Court will entertain future motions for appointment of counsel as the case progresses.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's fifth motion for appointment of counsel [ECF No. 35] is **DENIED** without prejudice.



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 9th day of February, 2023